



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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TEAMSTERS LOCAL 633 OF NEW HAMPSHIRE :

Complainant :

v. :

CASE NO. M-0606:1

PORTSMOUTH BOARD OF POLICE COMMISSIONS :  
AND CHIEF OF POLICE :

DECISION NO. 90-132

Respondent :

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#### APPEARANCES

##### Representing Teamsters Local 633 of New Hampshire:

Thomas D. Noonan, Business Agent

##### Representing Portsmouth Board of Police Commissions & Police Chief:

Thomas E. Cayten, Esq.

##### Representing International Brotherhood of Police Officers:

Edward J. Smith

##### Also appearing:

Mark G. Kelliher  
William T. Burke, Chief of Police  
Robert P. Sullivan  
Joseph R. Yergeau  
Karen A. Sullivan, Local 633  
James Gaskell, Local 633  
Roger Tropf, Local 633  
Al Kane, Local 402  
Stephen J. Arnold, Local 402  
David M. Whewell, Local 402  
John Centola, Local 402  
Donald K. Nelson, Local 633

#### BACKGROUND

On June 28, 1990, Teamsters Local 633 of New Hampshire by its Representative Thomas D. Noonan, Business Agent filed an improper practice charge against the Portsmouth New Hampshire Board of Police Commissioners and the Chief of Police,

alleging as follows:

On or about June 26, 1990 the Public Employers through their agent did in fact inform the Teamsters Representative that the positions of police dispatchers and meter persons would not be funded out of the Police Departments budget. This statement was contrary to what was expressed at the negotiating sessions on June 5, 1990, and that the Police Chief and the Police Commission would be supportive and recommend to the City Council to retain these positions in the bargaining unit. This charge arises out of the commissions failure to support their statement of June 26, 1990.

The Teamsters allege violation of RSA 273-A:5 1 (b), (c), (d) and (e) all involving the negotiations process.

On July 6, 1990 the commission and the Police Chiefs answer to the unfair labor charge in writing admitted that the City negotiator had the discussion on June 26th with the Teamster Representative and further that the Chief had notified the Business Agent of Local 633 as of a potential reduction in force which would have to take place if a supplemental budget as requested by the commission was not approved by the City Council.

The City admits to the elimination of the positions and further answers that they made every good faith effort to support their negotiated contract before the City Council.

Hearing in this matter was held on August 14, 1990. The opening of the hearing the Representative of Local 633 of Teamsters restated the unfair labor practice charge and alleged that the failure of the Police Commission to aggressively support the negotiated agreement which contained the dispatchers had not been made.

The negotiator for the City of Portsmouth and the Police Commission, Thomas Cayten, indicated that the commission had negotiated in good faith and further that they had no control over the actions of the City Council and further that they did in fact submit a supplemental budget to cover the positions being eliminated, and infact did all possible to secure the funds to keep these positions within the Department as it meant utilizing police officers in place of the dispatchers, if the City Council did not support the supplemental budget to provide for the dispatchers who had been eliminated by the Council from the Police Commissions budget.

Testimony was heard from certain dispatchers, Rogert Tardiff who had been employed as a dispatcher for 2½ years for the City. Testimony by several witnesses offered evidence as to the actions taken by the various parties and the Police Commission and the Police Chief before the City Council. They testified further of attendance of the various budget hearings before the City Council prior to enactment of the budget.

City Attorney, Robert Sullivan, Esq. offered testimony as to the budgetary process and the attempt to Cap the City appropriations which failed and as to the instructions that had been given to the City Manager with respect to the budgets preparation and submission. Testimony offered by various witnesses indicated that the Police Commission unequivocally supported the supplemental budget which would take care of the dispatchers positions and further that the supplemental budget became necessary when they had been instructed by the City Manager to start with a zero base budget and to place the dispatchers positions in the form of a supplemental budget.

The Chairman of the Police Commission, Joseph R. Yergeau testified at length about the process followed and the financial matters considered by the Commission and approach to the Council concerning the preparations and submission of a

supplemental budget to cover the dispatchers.

Further Police Commissioner, Mark Kelliher testified as to his involvement in the budget process and his recognition of directions from the City Manager with respect to the budget preparation and further testified as to the lobbying of various people at the City Council in support of the supplemental budget, budgeting process and further the attendance of various individuals at the work sessions and the budget preparations.

The International Brotherhood of Police Officers by its Counsel Edward J. Smith, Esq. offered certain testimony and comments with respect to the utilization of Police Officers to handle the dispatching duties where the dispatchers had been removed from the budget. The dispatchers being members of the Teamsters unit.

The Parties in this case submitted post-hearing briefs in support of their varying positions. The Main issue presented to this Board in this is whether or not the Police Commission failed to support the budgetary requirements to continue the dispatchers in the Police Department which had been cut out of the budget.

The following findings are made and are substituted for the request for findings of the parties.

#### FINDINGS

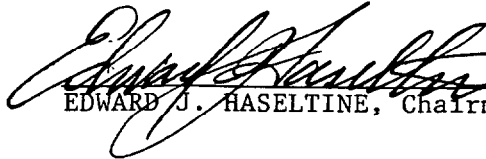
1. The Police Commission did prepare a budget in accordance with the guide lines ordered by the City Manager and in addition to the regular budget did submit a supplemental budget to cover the police dispatchers positions.
2. During the course of the meetings and discussions with the City Council, the commission was advised that the dispatchers positions were going to be eliminated.
3. The Chairman of the Police Commission and several members along with several members of the bargaining unit did in fact make presentations at hearings and work shops considering the budget.
4. The Chief of Police and the Chairman of the Police Commission as well as others did aggressively support the negotiated budgetary requirements, but were forced to cover the dispatchers salaries in a form of a supplemental budget which was rejected by the City Council.
5. The work of the dispatchers is currently being performed by uniform police officers who are members of IBPO.
6. 273:A-1-X1 specifically provides that management has the right to determine its organizational structure and to the selection, direction and number of its employees.
7. The City Council is considered the legislative body under 273-A and its action with respect to funding is unquestioned.
8. A finding of improper practice by the Portsmouth Police Commission and the Chief of Police is not supported by the evidence.

#### ORDER

The improper practice charge against the Portsmouth Police Commission and the

Chief of Police is DISMISSED.

Signed this 27th of December, 1990.

  
EDWARD J. HASELTINE, Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Daniel Toomey present and voting.